

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN DUANE HICKMAN,
Plaintiff,

v.
UNKNOWN,

Defendant.

No. 2:23-cv-0755 KJN P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding pro se and in forma pauperis. By order filed May 11, 2023, plaintiff's complaint was dismissed, and thirty days leave to file an amended complaint was granted. Thirty days from that date have passed, and plaintiff has not filed an amended complaint.

On May 19, 2023, plaintiff filed a notice in which he appears to claim that he is seeking to discharge a probation violation in the instant action. (ECF No. 9 at 2-3.) This document is not an amended complaint. In the May 11, 2023 order screening the complaint, the undersigned observed that in case no. 2:10-cr-00246, plaintiff pled guilty to possession of stolen mail. (ECF No. 5 at 3.) The undersigned advised plaintiff that if the claims raised in the instant action concerned case 2:10-cr-00246, these claims should be raised in case 2:10-cr-00246. (*Id.*) Plaintiff's claims regarding a probation violation, raised in his May 19, 2023 pleading, should be raised in the criminal action where the alleged probation violation occurred.

1 On June 12, 2023, plaintiff objected to the withdrawal of filing fees from his inmate trust
2 account claiming he sent an “International Bill of Exchange” as payment. (ECF No. 10 at 1.) As
3 explained in the May 11, 2023 screening order, plaintiff is required to pay the statutory filing fee
4 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). The Clerk’s Office accepts payments made by
5 check, money order, and cashier’s check by mail or at the intake counter. See E.D. Cal. Website
6 at <https://www.caed.uscourts.gov/caednew/index.cfm/clerks-office/paying-fees-and-financial-information>
7 (accessed June 15, 2023). Thus, the submission of an “International Bill of
8 Exchange” is ineffective to pay the filing fee.

9 Based on plaintiff's failure to file an amended complaint, as directed in the May 11, 2023
10 screening order, the undersigned recommends that this action be dismissed.

11 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court is
12 directed to assign a district judge to this case; and

13 IT IS RECOMMENDED that this action be dismissed without prejudice. See Local Rule
14 110; Fed. R. Civ. P. 41(b).

15 These findings and recommendations are submitted to the United States District Judge
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
17 after being served with these findings and recommendations, plaintiff may file written objections
18 with the court and serve a copy on all parties. Such a document should be captioned
19 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that
20 failure to file objections within the specified time may waive the right to appeal the District
21 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

22 | Dated: June 29, 2023

Kendall J. Newman
KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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